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Attorneys for Plaintiff
WILLIE L. MITCHELL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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|---------------------------------|---|------------------------------------|
| WILLIE L. MITCHELL, |) | NO. C07-4388 MJJ |
| |) | |
| Plaintiff, |) | PLAINTIFF'S EX-PARTE |
| |) | APPLICATION AND DECLARATION |
| vs. |) | FOR ORDER ENLARGING CASE |
| |) | MANAGEMENT DEADLINES AND |
| OAK HARBOR FREIGHT LINES, INC., |) | CONTINUING THE INITIAL CASE |
| |) | MANAGEMENT CONFERENCE |
| Defendant. |) | |
| _____ |) | |

I, PAMELA Y. PRICE, hereby apply on behalf of Plaintiff WILLIE L. MITCHELL for an Order pursuant to Civil Local Rules 6-1(b) and 7-10, enlarging the Case Management deadlines and continuing the Initial Case Management Conference to allow Plaintiff additional time to serve the Complaint and meet and confer with defense counsel.

Dated: November 19, 2007

PRICE AND ASSOCIATES

PAMELA Y. PRICE, Attorneys for Plaintiff
WILLIE L. MITCHELL

DECLARATION OF PAMELA Y. PRICE

I, PAMELA Y. PRICE, declare:

1. I am an attorney duly licensed to practice law in the United States District Court for the Northern District of California, and one of the attorneys of record for Plaintiff WILLIE L. MITCHELL. I make this Declaration on personal knowledge in support of Plaintiff's Ex Parte Application for An Order Enlarging the Case Management Deadlines and continuing the Initial Case Management Conference.

2. The Complaint in this action was filed on August 24, 2007. Mr. Mitchell has claims for the dissemination of false and misleading information against Defendant OAK HARBOR FREIGHT LINES, INC. arising out of his employment as a truck driver. Mr. Mitchell believes that Defendant OAK HARBOR has violated the Fair Credit Reporting Act (15 U.S.C. § 1681) and unlawfully interfered with his ability to obtain employment in his chosen field.

3. On August 24, 2007, the Court issued its initial Case Management Conference Order. The Order sets **November 13, 2007** as the deadline by which the parties must complete initial disclosures or make Rule 26(f) objections, and **November 27, 2007** as the last day to file the Case Management Conference Statement. The Order sets the Initial Case Management Conference for 2:00 p.m. on **December 4, 2007**.

4. Prior to filing the Complaint and subsequent thereto, I have been engaged in settlement discussions with Defendant OAK HARBOR's attorney, James Shaker. We have had several conference calls since the Complaint was filed pursuant to my efforts to resolve this matter without engaging in protracted litigation. On September 17, 2007, I sent a letter to Mr. Shaker asking him whether he was authorized to accept service of the Summons & Complaint on behalf of OAK HARBOR. I did not receive a response to my inquiry until November 5, 2007, when Mr. Shaker informed me that he was not authorized to accept service and OAK HARBOR was not interested in engaging in settlement negotiations at this time.

5. While my efforts to settle the case were pending, I started a sexual harassment jury trial in Solano County on October 16, 2007. In order to prosecute that case, I have been staying in Fairfield, California during four days of the week. There was no one else

1 in my office assigned to this matter or able to prosecute it during this time. That trial ended at
2 4:45 p.m. on Thursday, November 15, 2007, when the matter was submitted to the jury. Prior to
3 giving my closing argument on November 15th, I was not able to have the Summons &
4 Complaint served in this matter. We have identified Defendant's agent for service of process in
5 California and retained a process server to serve the Summons & Complaint, and I anticipate
6 that service will be completed this week. Once Defendant OAK HARBOR is served, it will
7 need time to answer the Complaint and for counsel to meet and confer in compliance with the
8 Court's Order Setting Initial Case Management Conference and ADR Deadlines.

9 6. In order to allow adequate time for Defendant OAK HARBOR to answer
10 the Complaint and for counsel to comply with the Court's Order to meet and confer, I am
11 requesting that the Case Management dates be enlarged, and that the Case Management
12 Conference be continued to January 29, 2008.

13 7. Granting this Application will affect this Court's Initial Case Management
14 Scheduling Order although it should not result in any significant delay in the proceedings. Mr.
15 Mitchell believes good cause exists for this Application, as granting the Application will serve
16 the interests of justice by allowing us an opportunity to serve the Defendant, the Defendant to
17 answer the Complaint, and counsel to meet and confer prior to the filing of a joint Case
18 Management Conference Statement.

19 8. There have been no previous requests for continuance of the meet and
20 confer deadlines, or for continuance of the Initial Case Management Conference.

21 I declare under penalty of perjury under the laws of the State of California and
22 the United States that the foregoing is true and correct. If called as a witness in this matter, I
23 could and would testify competently to the facts stated herein.

24 Executed in Oakland, California, on November 19, 2007.

25 /s/ Pamela Y. Price

26 PAMELA Y. PRICE, Declarant
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